

REMARKS

Claims 1-3, 6-8, 10-23, and 27-34 are pending in the application, with claims 16 and 17 having been indicated as allowable in the Office Action.

By the present submission, claims 1, 6, 15, 17, 22, 23, 27, 31, 32, 33, and 34 are amended to reflect subject matter which the Office Action indicates as being allowable, and to correct certain informalities in the claims. No new matter is introduced by these amendments.

Notwithstanding the foregoing, Applicants expressly reserve the right to prosecute subject matter no longer or not yet claimed in one or more applications that may claim priority to the present application.

Reconsideration of the claimed invention is respectfully requested in view of the foregoing amendments and the following remarks.

1. Objection to claims 15, 21-23, 27, 33, and 34

Applicants respectfully submit that the objection to the claims is rendered moot by the foregoing amendment to the claims.

2. Rejection under 35 U.S.C. §112, first paragraph

Applicant respectfully traverses the rejection of claims 1-18 under 35 U.S.C. §112, first paragraph.

As discussed in detail in Applicants' response to the previous office action, the claimed invention can be practiced throughout its scope without undue experimentation because the person of ordinary skill with reference to the specification understands its application and need use no more than conventional techniques to apply it. No more than routine experimentation would be required to apply the invention throughout its scope. The enablement standard demands no more.

Notwithstanding this, in the office action it is acknowledged that the specification is enabling with regard to a fusion protein comprising a mammalian surfactant protein precursor lacking its C-terminal propeptide, or mature mammalian surfactant protein, fused to a plasminogen activator, where the surfactant protein is SP-B or SP-C, and where the fusion protein retains the biological activities of the surfactant protein and the plasminogen activator. In an effort to advance prosecution, Applicants have amended the claims to refer to such fusion proteins.

Applicants respectfully submit that the rejection under 35 U.S.C. §112, first paragraph is rendered moot by the foregoing amendment to the claims, and request that the rejection be withdrawn.

3. Rejection under 35 U.S.C. §112, second paragraph

Applicants respectfully submit that the rejections of claims 2, 3, 7, 8, 22, and 32 under 35 U.S.C. §112, second paragraph, based upon an alleged lack of antecedent basis are rendered moot by the foregoing amendment to the claims, and request that the rejections be withdrawn.

CONCLUSION

Applicants submit that the claims are in condition for allowance, and an early notice to that effect is respectfully requested. If the Examiner would like to discuss any remaining issues, Applicants' representative can be reached at (619) 203-3186.

Respectfully submitted,

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